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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,493	07/10/2003	Baoloc Le	50442/DMC/S584	2843

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EXAMINER
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COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/617,493	Applicant(s) LE ET AL.	
	Examiner Josiah Cocks	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8,10-18,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 11-18 is/are allowed.
- 6) ☒ Claim(s) 5-8,10,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>various dates</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt of applicant's amendment filed 12/09/2004 is acknowledged.

### ***Information Disclosure Statement***

2. The information disclosure statements filed 02/02/04, 02/02/09, 03/29/04, 12/09/04, and 01/31/05 have been considered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 5-8, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,148,813 to Barnes et al. ("Barnes") (cited by applicant).

Barnes discloses in Figures 1-7 the invention as described in applicant's claims 5-8, 21, and 22. In particular, Barnes discloses an oven (2) with an oven enclosure (5) having opposing sidewalls (see Fig. 1) and an extendable oven rack assembly (28a). The oven rack assembly includes an oven rack (202), full extension slides (157, 158), opposing wire frames corresponding approximate each sidewall (see at least 149, 150, and 208, 209, and Figs. 6 and 7), wherein the extendable assembly functions to allow an oven rack to be moved from an position

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within the oven cavity to a position outside the oven cavity (see col. 1, lines 49-61). As shown in Figures 6 and 7, slide members (208, 209) are coupled to the oven rack and slide members (149 and 150) are coupled to the wire frames. Barnes further shows means for locking the extension slides in a pre-defined position (see notches 129, 130, and col. 6, lines 15-33) and intermediate slide members (170, 171) coupling the first and second slide members (see Fig. 7)

The rack of Barnes shown at least in Figures 6 and 7 is mounted in the oven enclosure illustrated in Figure 1. When mounted the examiner considers that the outer slides (157, 158) are mounted to the oven walls in the same manner shown by applicant (e.g. see applicant's Figure 21). The components of Barnes rack (28a) move relative to one another by virtue of horizontal rollers, which are preferred for ease of operation (see Barnes, col. 7, lines 22-25) and thus the rack is considered to be configured for rolling engagement with a side wall of an oven enclosure as recited in applicant's claims 21 and 22. Accordingly, applicant's claims 5-8, 10, 21, and 22 are not considered to read over the prior art.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes as applied to claim 5 above.

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In regard to claim 10, Barnes shows, in the embodiment of the oven rack of Figure 4, notches (129 and 130) that function to lock the oven-rack in pre-defined positions (see col. 6, lines 15-33). While it is not clear if the embodiment of the oven rack shown in at least in Fig. 7 includes these notches the examiner considers it would be obvious to a person of ordinary skill in the art to modify the Fig. 7 embodiment to incorporate these notches as shown in the Fig. 4 embodiment as they desirably provide retracted and extended stop positions for the oven rack relative to the oven enclosure.

*Allowable Subject Matter*

7. Claims 1-4, and 11-18 are allowed.

*Response to Arguments*

8. Applicant's arguments with respect to claims 5-8, 10, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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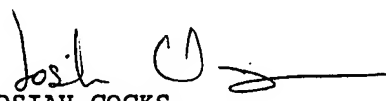
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc  
March 2, 2005

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749